REMARKS

Claims 1-39 are pending in the application. It is gratefully acknowledged that Claims 22-29 are allowed.

This response is being filed within two (2) months of the mailing date of the final Office Action, and therefore the time periods pursuant to MPEP §706.07(f) apply.

The Examiner has rejected Claims 1, 4, 8, 11, 15, 16 and 18 under 35 U.S.C. §102(e) as being anticipated by Esteves et al. (U.S. Patent 6,205,129). The Examiner has rejected Claims 7, 14, 17, 19, 30, 33, 36 and 37 under 35 U.S.C. §103(a) as being unpatentable over Esteves et al. in view of Proposed HDR Standard (3GPP2-C00-20000327). The Examiner has rejected Claims 2, 5, 9, 12, 20, 31, 34 and 38 under 35 U.S.C. §103(a) as being unpatentable over Wada (U.S. Patent 5,689,503). The Examiner has rejected Claims 3, 6, 10, 13, 21, 32, 35 and 39 under 35 U.S.C. §103(a) as being unpatentable over Esteves et al. in view of Wada, and further in view of Proposed HDR Standard.

1. Rejections of independent Claims 1, 4, 8, 11 and 15 under §102(e)

Regarding the rejection of independent Claims 1, 4, 8, 11 and 15 under §102(e), the Examiner states that Esteves et al. anticipates all of the elements of the claims. Esteves et al. discloses a method and apparatus for variable and fixed forward link rate control in a mobile radio communications system. Each of Claims 1, 4, 8, 11 and 15 recites "a data rate control (DRC) request indicator (DRI) bit". The Examiner maintains that the "balanced state bit" of Esteves et al. is equivalent to the DRI bit of the present application. Applicants respectfully disagree.

The DRI bit of the claims of the present application is a bit used to request data rate control. The Examiner quotes the Specification at page 8, lines 16-23, wherein it states, "The

DRI bit indicates whether DRC information is needed for scheduling after a predetermined slot period." The DRI bit is used to selectively provide DRC information. Esteves et al. defines the "balanced state bit" at col. 4, lines 37-42, "if the base station is able to reliably receive DRC messages from the mobile station on the data rate control channel, the base station sends a balanced state bit (i.e., the bit is set to 0 or 1) to the mobile station indicating that the base station is reliably receiving the DRC messages." The DRI bit of the present application indicates if the DRC message is required; the balanced state bit of Esteves et al. indicates if the DRC information is being received. Indicating if information is received cannot be equated with indicating if information is needed. The "balance state bit" cannot anticipate the DRI bit.

The DRI bit indicates if the DRC information is required. The DRI bit is information for requesting data transmission. A mobile station (MS) cannot transmit a data rate control (DRC) message when the DRI has been not transmitted.

The Examiner asserts that the "balanced state bit" in Esteves et al. is also information for requesting data transmission. Esteves et al. does not support this position. According to Esteves et al., when the "balanced state bit" is not been transmitted, the non-transmission does not cause the MS to not be able to transmit the DRC message. The MS uses to the "balanced state bit" when determining a maximum data rate.

As distinguished from Esteves et al., if the MS of the claims of the present application fails to receive a DRI bit, the MS cannot transmit a DRC message.

Thus, the "balanced state bit" of Esteves et al. is different from the DRI of the claims of the present application.

Based on at least the foregoing, withdrawal of the rejection of independent Claims 1, 4, 8, 11 and 15 under §102(e) is respectfully requested.

2. <u>Rejections of independent Claims 30, 33 and 37 under §103(a)</u>

Regarding the rejection of independent Claims 30, 33 and 37 under §103(a), the Examiner states that Esteves et al. in view of the Proposed HDR Standard renders the claims unpatentable. Applicants respectfully disagree.

Each of independent Claims 30, 33 and 37 recite, in one form or another, that a last slot is determined, and that the DRC information is generated in at least one predetermined slot, the at least one predetermined slot being *__before the last slot__* and *__after the packet data__* and *__in the first transmission period__*.

Estevez et al. monitors each time slot; Esteves does not specifically determine (or check for) the last time slot. Esteves et al. does not transmit the DRC information between the packet data and the last slot of the first transmission period.

The Proposed HDR Standard in FIG. 9-10 clearly illustrates that start of the DRC is during the packet data, i.e. "pilot/DRC_n" begins transmission during "AN Sending DATA_n" and during "AT receiving DATA_n and PILOT_n".

Therefore, neither Esteves nor the Proposed HDR Standard, or any combination thereof, teaches of discloses that the DRC information is generated in at least one predetermined slot *__before the last slot__* and *__after the packet data__* and *__in the first transmission period__*.

Based on at least the foregoing, withdrawal of the rejection of independent Claims 30, 33 and 37 under §103(a) is respectfully requested.

Independent Claims 1, 4, 8, 11, 15, 30, 33 and 37 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3, 5-7, 9, 10, 12-14, 16-21, 31, 32, 34-36, 38 and 39, these are likewise believed to be allowable by virtue of their

dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3, 5-7, 9, 10, 12-14, 16-21, 31, 32, 34-36, 38 and 39 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-39, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

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